

EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CHRISTOPHER HOWE, :
Individually, and on :
Behalf of all others :
Similarly situated, :
 Plaintiff :
 -vs- : CASE NO. 1:19-cv-01374
SPEEDWAY LLC AND :
MARATHON PETROLEUM :
COMPANY, :
 Defendants :

Deposition of KELLI JONES, a witness
herein, taken by the Plaintiff as upon
cross-examination and pursuant to the Federal Rules
of Civil Procedure as to the time and place and
stipulations hereinafter set forth, at the offices
of Britton & Associates, 201 Riverside Drive, Suite
2B, Dayton, Ohio at 10:45 a.m., on October 1, 2019,
before Jamie S. Hurley, Court Reporter and Notary
Public within and for the State of Ohio.

* * * * *

1 WHEREUPON:

2 KELLI JONES,
3 of lawful age, a witness herein, being first duly
4 sworn as hereinafter certified, testified as
5 follows:

6 CROSS-EXAMINATION

7 BY MR. STEPHAN:

8 Q. Good morning.

9 A. Good morning.

10 Q. Can you please state and spell your
11 name for the record?

12 A. Kelli Jones, K-E-L-L-I, J-O-N-E-S.

13 Q. Good morning, Kelli. My name is Ryan
14 Stephan. I'm one of the lawyers representing the
15 plaintiffs in the Howe versus Speedway case. We're
16 here today to take your rule 30(b)(6) deposition in
17 that case. Have you ever been deposed before?

18 A. No.

19 Q. Okay. I'm going to go over a couple of
20 ground rules to try to follow just so that things
21 go smoothly, and we have a clear record, and
22 hopefully we get you out of here before too long.
23 Sound good?

24 A. Sounds good.

25 Q. First, is do your best to give clear

1 that in 2017.

2 Q. Do you remember what time of the year
3 in 2017?

4 A. Maybe around second to third quarter.

5 Q. Do you remember what month of the year
6 it would have been?

7 A. When we started evaluating the policy?

8 Q. Yes.

9 A. No, I don't know exactly what month
10 that was in.

11 Q. How did you first learn that you were
12 going to evaluate the consent form policies for
13 Illinois workers regarding Speedway's finger scan
14 timekeeping device?

15 A. There had been a news article related
16 to Kronos in particular that they were being looked
17 at for their finger scan devices, and that caused
18 our HR representatives and attorneys to come
19 together to just double check our compliance with
20 it.

21 Q. Okay. Do you remember who it was at
22 Speedway who identified that news article regarding
23 Kronos?

24 A. I don't know who specifically noticed
25 the article. I do know who was present in the

1 meeting.

2 Q. Okay. What meeting?

3 A. To discuss the compliance and whether
4 we were where we needed to be.

5 Q. Okay. So the article would have been
6 before that meeting; is that correct?

7 A. Yes.

8 Q. Okay. Was the article, did you ever
9 read the article?

10 A. I did not read it verbatim. I had kind
11 of hit some highlights on it.

12 Q. Okay. Do you know if the article was
13 for Kronos being sued for violations of the
14 Illinois Biometric Information Privacy Act?

15 A. Yes. That is correct.

16 Q. So do you remember who shared that
17 article with you?

18 A. I, nobody shared it with me. I take it
19 upon myself if I hear of stuff like that to go and
20 search, so I'm sure I Googled it.

21 Q. Okay. Who first shared with you the
22 news that that article existed?

23 A. That would have been our attorney.

24 Q. Who was that?

25 MR. WOLFE: So I'm, I think

1 BY MR. STEPHAN:

2 Q. No. I just want to know when the next
3 conversation, not content of, just when the next --

4 MR. WOLFE: Thank you, Ryan.

5 THE WITNESS: Honestly, I don't
6 know specifically what the date was, but it would
7 have been sometime before November.

8 BY MR. STEPHAN:

9 Q. Why do you say before November?

10 A. Because we implemented the consent form
11 in November.

12 Q. Do you know approximately how long
13 after that initial meeting that we discussed until
14 Holly created that consent form?

15 A. A month or so.

16 Q. Okay. Do you know if anyone else
17 played a role in preparing the consent form?

18 A. I mean, I don't know for sure, but I
19 would guess that Diana and her were creating it.

20 Q. Can you think of anyone else that would
21 have helped prepare this consent form?

22 A. IT may have had a role in that.

23 Q. Would that have been either Chris
24 Salley or Ryan?

25 A. Probably.

1 (WHEREUPON, a recess was taken.)

2 BY MR. STEPHAN:

3 Q. We're back on the record. When we took
4 a break we were talking about Speedway's rolling
5 out of this new BIPA consent form back in the fall
6 of 2017; do you recall that, Kelli?

7 A. Yes.

8 Q. And do you remember the date that it
9 was rolled out?

10 A. I believe it was November 1st of 2017.

11 Q. Okay. And was Ms. Anderson responsible
12 for sort of overseeing the roll out to the store
13 employees in Illinois?

14 A. Yes.

15 Q. And I think you mentioned that it
16 applied for about 5 or 600 store employees at the
17 time; is that right?

18 A. More or less.

19 Q. Okay. And they are all using
20 Speedway's timekeeping device at the time, correct?

21 A. Yes.

22 Q. And what type of device was it?

23 A. It was a finger scan device.

24 Q. Okay. And do you know who the vendor
25 was that manufactured those devices?

1 A. I'm not aware of who manufactured the
2 actual time devices, but the software was through
3 Kronos.

4 Q. Do you know, do you know how Speedway
5 obtained the hardware that is the physical devices
6 themselves?

7 A. That would be through the vendor of
8 Kronos.

9 Q. Okay. So Speedway acquired both the
10 hardware, the devices themselves, and the software
11 to bundle those timekeeping devices from Kronos; is
12 that right?

13 A. Yes. At the time that software was
14 TimeLink, and Kronos acquired TimeLink.

15 Q. When did Kronos acquire TimeLink?

16 A. That I do not know.

17 Q. Do you know if the time that these
18 consent forms being rolled out back in November of
19 2017, did Kronos own TimeLink at that time?

20 A. Yes.

21 Q. And Speedway used TimeLink prior to
22 Kronos purchasing it?

23 A. Yes.

24 Q. And who was the vendor before Kronos
25 then owned TimeLink?

1 A. That was TimeLink.

2 Q. Okay. There's actually a company
3 called TimeLink, though, and TimeLink Software,
4 correct?

5 A. Yes, at the time.

6 Q. Do you know when Speedway first used
7 the TimeLink software?

8 A. I believe that that was implemented
9 between 2003, 2004.

10 Q. Does it still use it today?

11 A. No.

12 Q. When did it stop?

13 A. Are you speaking specifically in the
14 State of Illinois?

15 Q. Yes.

16 A. 2018.

17 Q. Do you remember when in 2018?

18 A. No, I don't because that was a phased
19 roll out in different divisions, went live at
20 different times throughout the year.

21 Q. Okay. So for the State of Illinois
22 would you agree that that software used for
23 timekeeping devices between 2003 or 2004 and then
24 2018 was TimeLink?

25 A. Yes.

1 Q. Okay. And TimeLink was previously
2 owned by the company TimeLink. At some point it
3 implements in 2017, it was purchased by Kronos; is
4 that right?

5 A. I don't know if it was 2017 it was
6 purchased by Kronos, but it was before we rolled
7 out the forms.

8 Q. Okay. Do you have any idea why Kronos
9 purchased TimeLink?

10 A. I do not.

11 Q. Okay. And the devices themselves, the
12 hardware that we discussed about, they were
13 originally provided to Speedway by Kronos, correct?

14 A. Yes.

15 Q. Was there a name for those devices?

16 A. I mean, they have a model name. I
17 don't know what that model name is, but we just
18 called them the time clocks.

19 Q. Do you know if they were ever called
20 Touch ID?

21 A. I don't know that for sure.

22 Q. Okay. Would you agree that employees
23 working at Speedway stores in Illinois back in 2017
24 at the time of this rollout, consent form rollout
25 to clock in and out of these with their

1 Q. Have we exhausted that basis?

2 A. Yes.

3 Q. Okay. You also mentioned that another
4 basis of documentation, I think, from Kronos; is
5 that right?

6 A. Yes.

7 Q. What documentation are you referring
8 to?

9 A. They have information, published
10 material about their specific software and hardware
11 devices that they use.

12 Q. Can you think of the name of those
13 publications?

14 A. No.

15 Q. Do you remember when you first saw
16 those documents?

17 A. No.

18 Q. Okay. Do you have any other basis for
19 your testimony that the timekeeping devices used by
20 Speedway don't take actual pictures of user's
21 fingerprints?

22 A. No.

23 Q. Okay. You would agree, though, that at
24 least up until any changes that Kronos or, I'm
25 sorry, that Speedway made in 2018 that employees

1 would clock in and out by putting their finger on
2 the timekeeping device, correct?

3 A. Yes.

4 Q. And you would agree that before that
5 they could clock in and out they would have to be
6 enrolled in that timekeeping device, correct?

7 A. Yes.

8 Q. And to do so Speedway would collect
9 those user's fingerprints, correct?

10 A. I would say that Speedway collected a
11 code that was assigned to a scan of match points of
12 an employee's finger.

13 Q. Okay. Let's break this down. Have you
14 ever personally been involved in an enrollment of
15 an employee in Illinois into the timekeeping
16 device?

17 A. No.

18 Q. Do you have any personal knowledge
19 about how that occurs?

20 A. Yes.

21 Q. What is your personal knowledge?

22 A. When an employee begins employment at
23 the store, the manager takes them to the clock.
24 The employee places their finger on the scanner.
25 That scanner immediately creates an alphanumeric

1 code that is assigned to that scan, and then that
2 is associated with the employee name, employee
3 number, and job.

4 Q. By the way, any of those documents from
5 Kronos, did they actually use the word fingerprint?

6 A. I do not know.

7 Q. Have you ever seen any documents,
8 Speedway documents, Kronos documents or other
9 documents that say that timekeeping device collects
10 fingerprints?

11 A. I do not recall that.

12 Q. Do you know if the consent form that
13 that Speedway rolled out in November of 2017 uses
14 the word fingerprints?

15 A. We use finger scan.

16 Q. Are you sure about that?

17 A. I can't specifically state if we used
18 the word fingerprint or not, but I know finger scan
19 is used repeatedly.

20 Q. Okay. If the consent form includes the
21 word fingerprint, would there be any problem with
22 that?

23 MR. WOLFE: Object to the extent
24 it seeks a legal conclusion. You can answer it.

25 THE WITNESS: I don't know.

1 BY MR. STEPHAN:

2 Q. Okay. So let's go back to this
3 process. So the manager for new hires would take
4 the new employee for their timekeeping device,
5 correct?

6 A. Yes.

7 Q. The manager would have the employee
8 place a finger on the timekeeping device, correct?

9 A. Yes.

10 Q. And where on the device would they
11 place their finger?

12 A. There's like a little pad on the side
13 of the clock (indicating).

14 Q. Okay. There is a glass pad?

15 A. Honestly I don't know if it was glass.

16 Q. Is there any scanner that's part of the
17 timekeeping device?

18 A. The scanner is on the clock.

19 Q. Okay. So the employee, can the
20 employee put any finger he or she wants to on the
21 timekeeping scanner?

22 A. Yes.

23 Q. Okay. Can they put the top of their
24 finger?

25 A. Can you clarify?

1 Q. Yeah. Can they put the top of their
2 finger, like their fingertips?

3 A. I believe they could. I'm not sure if
4 it could assign a code to that.

5 Q. Is that consistent with Speedway's
6 process of enrolling new employees that are
7 permitted the top of their finger on the scanner
8 when they are rolling their fingerprint in the
9 timekeeping device; is that permitted?

10 A. If it allows the employee to have the
11 scan completed and the code created, then we would
12 allow it.

13 Q. Does it?

14 A. Not to my knowledge.

15 Q. Okay. So they are required to place
16 the pad of their finger, correct?

17 A. Yes.

18 Q. Or where their fingerprint is, right?

19 A. The pad of their finger, yes.

20 Q. Yeah. Would you agree with me, I mean,
21 it's not rocket science, the pad of your finger to
22 yours, that's where your fingerprint is, correct?

23 A. Sure.

24 Q. Okay. And that's the part of your
25 finger that Speedway required store employees in

1 Illinois to scan when they are enrolled in a their
2 timekeeping system, correct?

3 A. Normally.

4 Q. What do you mean normally?

5 A. I know of occasions where there's been
6 other images with match points that were converted
7 to this code that was outside of the finger.

8 Q. What do you mean?

9 A. There was a specific case that I had
10 talked to my manager about where employees no
11 longer had said fingerprint or pad on their finger,
12 and so we would collect the scan of the palm, a
13 point on the palm that would create match points to
14 that that would be able to create a code.

15 Q. Okay. So would you agree that outside
16 of those circumstances where an employee either
17 doesn't have a fingerprint or there's some problem
18 with their fingerprint that prevented them from
19 using that to enroll themselves into the
20 timekeeping device Speedway would have them use
21 their hand instead; is that correct?

22 A. Or manually.

23 Q. What do you mean manually?

24 A. Employees, if they did not want to
25 provide the scan or if they couldn't provide a scan

1 A. Those were provided by TimeLink at the
2 time.

3 Q. Okay. Was there a name for those
4 TimeLink timekeeping devices?

5 A. There was, but I don't know what it
6 was.

7 Q. Okay. Were those TimeLink devices used
8 in stores in Illinois ever replaced?

9 A. It is possible.

10 Q. Do you know when?

11 A. That would have been dependent on if
12 the clock would have broke or something, I mean,
13 they were never bulk replaced.

14 Q. Okay. Do you know if TimeLink, that
15 the devices originally, the timekeeping devices
16 originally provided by TimeLink are still used in
17 Speedway stores today?

18 A. No, they are not.

19 Q. Okay. So at some point Speedway
20 stopped using the TimeLink for timekeeping devices,
21 correct?

22 A. Yes.

23 Q. When was that?

24 A. 2018.

25 Q. Okay. When in 2018?

1 A. I --

2 MR. WOLFE: Is this different from
3 what we already covered? I think --

4 MR. STEPHAN: We haven't covered
5 this.

6 MR. WOLFE: She already testified
7 about this, but go ahead.

8 THE WITNESS: In 2018 we
9 implemented a new software, and that was a phased
10 rollout, so it would have been at any point in 2018
11 whenever that group of stores was set to rollout.

12 BY MR. STEPHAN:

13 Q. Okay. So 2018 you implemented this
14 software; is that correct?

15 A. Yes.

16 Q. And you replaced TimeLink software,
17 right?

18 A. Yes.

19 Q. With Kronos software; is that right?

20 A. No.

21 Q. Okay. What kind of software?

22 A. We replaced the software that we were
23 using of Kronos with Infor.

24 Q. Infor?

25 A. Infor, I-N-F-O-R.

1 Q. Okay. Was Infor a separate method?

2 A. Yes.

3 Q. Is Infor the name of the method?

4 A. Yes.

5 Q. Okay. So next is software. Did
6 Speedway also change the hardware, timekeeping
7 hardware at stores in 2018?

8 A. Yes.

9 Q. Okay. And the old hardware was what?

10 A. The TimeLink hardware.

11 Q. Okay. Originally provided by TimeLink,
12 the TimeLink company, correct?

13 A. Yes.

14 Q. And what was it replaced with?

15 A. The Infor partnered hardware.

16 Q. So how many timekeeping devices were
17 replaced in 2018 in the State of Illinois?

18 A. One.

19 Q. I'm sorry, I'm trying to find out how
20 many physical devices were --

21 A. Oh, I'm sorry.

22 Q. -- were implemented in the Illinois
23 stores in 2018?

24 A. As many stores as we would have had in
25 Illinois in 2018.

1 BY MR. STEPHAN:

2 Q. Okay. And that was true up until at
3 least November of 2017, correct?

4 A. Yes.

5 Q. Okay. And during that time from 2012
6 until November of 2017 did Speedway get those
7 employees' written consent before it enrolled them
8 in the biometric timekeeping device?

9 MR. WOLFE: Object to the extent
10 it seeks a legal conclusion. You can answer it.

11 THE WITNESS: There were numerous
12 policies that employees signed off on regarding our
13 technology, but specifically for the timekeeping
14 device, no.

15 BY MR. STEPHAN:

16 Q. Okay. And prior to November of 2017
17 did Speedway inform any of its store employees of
18 their rights under BIPA?

19 MR. WOLFE: Same objection. You
20 can answer it.

21 THE WITNESS: I am not sure.

22 BY MR. STEPHAN:

23 Q. As you sit here today are you aware of
24 under, informing store employees of their rights
25 under BIPA before November of 2017?

1 A. From a written perspective, no. But
2 I'm not sure verbally.

3 Q. Prior to November of 2017 are you aware
4 of Speedway having a written policy that was made
5 available to the public establishing a retention
6 schedule and guidelines for permanently destroying
7 biometric identifiers, biometric information?

8 A. Speedway has a retention policy
9 regarding all timekeeping information.

10 Q. Okay. Do they have one regarding
11 people's fingerprints and how those fingerprints
12 were destroyed prior to November of 2017?

13 A. Not specifically, but it was also not
14 excluded.

15 Q. I'm sorry, it was also not?

16 A. Excluded.

17 Q. What policy are you referring to?

18 A. Our records retention policy.

19 Q. Is there a name for it?

20 A. Timekeeping.

21 Q. Where is that policy kept?

22 A. It's in our operations manual available
23 for anyone to see. It's also on our corporate
24 share drive.

25 Q. Okay. You say in the operation's

1 prepare for today's deposition?

2 MR. WOLFE: You can answer that
3 generally.

4 THE WITNESS: Policies.

5 BY MR. STEPHAN:

6 Q. Anything else?

7 A. Declarations.

8 Q. Anything else?

9 A. No.

10 Q. What policies did you review?

11 A. The code of conduct, the code of
12 business conduct, sorry, the personal and
13 employment information policy, the retention
14 policy, the information release policy and the
15 information system usage policy.

16 Q. Okay. Did you look at any other
17 policies?

18 A. The BIPA policy that was created in
19 2017.

20 Q. Okay. Anything else?

21 A. No.

22 Q. Okay. You also mentioned you looked at
23 declarations?

24 A. Yes.

25 Q. Whose declarations?

1 plus clocks installed; do you see that?

2 A. Yes.

3 Q. Okay. And that was cross country; is
4 that right?

5 A. Yes.

6 Q. And I think we talked about this
7 earlier, but do you know how many were installed in
8 Illinois?

9 A. Over 100.

10 Q. Do you know if a, let me ask this
11 first. Were you aware of store employees ever
12 going from working at one store and then going to
13 work at another store?

14 A. Yes.

15 Q. When that happens, can those employees
16 do that, go from store to store, do they have to
17 reenroll their fingerprint on the different
18 timekeeping devices, each store to clock in and
19 out?

20 A. Yes.

21 Q. Okay. So if employees starts at store
22 A they are registered and enrolled in a timekeeping
23 device at store A before they can clock in and out
24 the timekeeping device at store B they have to
25 reenroll their fingerprint; is that right?

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1 A. Yes.

[illegible]

1 A. No.

2 MR. WOLFE: So, Ryan, you know, I
3 mean, you can ask your questions to the extent they
4 were in the corporate rep notice, but this is a
5 document produced by Kronos that says Marathon
6 Petroleum Company on the cover. She's Speedway's
7 Corporate Rep, and she's a Speedway employee. So,
8 you know, I'll let you ask your questions, but
9 those are the things I'm thinking about as I look
10 at this.

11 MR. STEPHAN: Sure. Okay. Jamie,
12 can you show Kelli what we marked as Exhibit 6
13 which will be Plaintiff's Exhibit 3 for purposes of
14 today's deposition?

15 (WHEREUPON, Plaintiff's Exhibit
16 No. 3 was marked for identification.)

17 BY MR. STEPHAN:

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14 MR. STEPHAN: Jamie, could you
15 show the witness what we have previously marked as
16 Exhibit 3 for you, it will be Plaintiff's Exhibit 4
17 for today?

18 (WHEREUPON, Plaintiff's Exhibit
19 No. 4 was marked for identification.)

20 BY MR. STEPHAN:

21 Q. Kelli, are you familiar with Exhibit 3
22 which is Bates stamped SSPA00002299 through 301?

23 A. Yes.

24 Q. Could you tell us what it is?

25 A. It is our BIPA consent form.

1 Q. Okay.

2 A. Or policy.

3 Q. Is this a form --

4 A. The BIPA policy.

5 Q. Sure. Is this a form that's prepared
6 by Holly and Diana?

7 A. Yes.

8 Q. Okay. And this is a form that would
9 have been rolled out on November 1st, 2017?

10 A. Yes.

11 Q. Okay. Do you see at the top of it it
12 says, to all Illinois stores?

13 A. Yes.

14 Q. And this was actually rolled out to
15 over 100 stores in Illinois, correct?

16 A. Yes.

17 Q. By the way, have you ever read the
18 Illinois Biometric Information Privacy Act?

19 A. No.

20 Q. Do you know who if Diana or Holly had
21 approval from anyone else before they finalized the
22 policy?

23 A. I'm sorry, can you repeat that.

24 Q. Do you know if Holly Hollandsworth or
25 Diana Anderson needed to get approval from anyone

1 above her before they finalized this policy?

2 A. No, I'm not aware.

3 Q. Okay. Do you see the very first
4 section that says, what information did Speedway
5 collect and why?

6 A. Yes.

7 Q. Do you see it says, during the
8 onboarding process Speedway uses a third party
9 device to scan employee's fingerprints?

10 A. Yes.

11 Q. It uses the word fingerprints, doesn't
12 it?

13 A. Yes.

14 Q. Just like the other Speedway documents
15 we've seen today?

16 A. Yes.

17 Q. By the way, at the time that this
18 document was being rolled out do you know if
19 Speedway had been sued for violations of BIPA?

20 A. I am not sure.

21 Q. You're aware that Christopher Howe
22 brought case against Speedway for violations of
23 BIPA?

24 A. I'm aware of that because I'm here.

25 Q. When did you first learn of that case?

1 A. Honestly I'm not for sure, maybe at the
2 end of 2017.

3 Q. Are you aware that Mr. Howe filed this
4 lawsuit on February 1st, 2017?

5 A. No, I'm not aware.

6 Q. You would agree that would be two
7 months before this consent form was rolled out?

8 A. Yes.

9 Q. Prior to rolling this consent form out
10 in November of 2017, did you have any knowledge
11 that a lawsuit was filed against Speedway for
12 violations of BIPA?

13 A. No.

14 Q. Do you remember how you first learned
15 about this lawsuit that brought you here today?

16 A. I don't remember the specifics of the
17 conversation, but it was brought to my attention by
18 our attorney.

19 Q. That would be Holly?

20 A. That would be Holly, yes.

21 Q. Was that face-to-face conversation?

22 A. I don't recall.

23 Q. In that first sentence it talks about
24 third party device; do you see that that, that
25 first bullet point?

1 recall his name.

2 Q. When was the last time you communicated
3 with Kostas?

4 A. That would have probably been that
5 conversation that we had when he was onsite at
6 Speedway which was several years ago.

7 Q. When was the last time you communicated
8 with the --

9 A. That would have been after the
10 evaluation of time systems for the future, so 2017.

11 Q. And who, was the rep a man or a woman?

12 A. It was a man.

13 Q. You don't remember his name?

14 A. Honestly, I really don't, I'm sorry.

15 Q. Would you agree that if we really want
16 to find out whether or not the original fingerprint
17 was to be recreated we should ask Kronos?

18 A. Yeah.

19 Q. Are you aware of any efforts by anyone
20 at Speedway to contest that statement?

21 A. No, I'm not aware of that.

22 Q. Okay. And then do you see the next
23 section it talks about effective immediately?

24 A. Yes.

25 Q. So after November 1st, 2017 would you

1 agree it was Speedway's policy to require all
2 employees including store leadership hired on or
3 after November 2nd, 2007 to require them to
4 acknowledge and sign information release form
5 during the onboarding process?

6 A. Yes.

7 Q. Current employees who are already
8 enrolled who previously enrolled before November
9 1st, 2017 were also required to sign off on this
10 consent form, right?

11 A. It does not specifically say in this
12 document they were required to sign it, but that,
13 they would need to acknowledge and sign to continue
14 to use it.

15 Q. Right. It doesn't use the word
16 require. It says they need to acknowledge and sign
17 the release, correct?

18 A. Correct.

19 Q. It then goes on at the bottom it says,
20 if you have any questions, please dial the
21 Operations One Number; do you see that?

22 A. Yes.

23 Q. What is Operations One?

24 A. The Operations One Number is one number
25 that all employees have access to for different

1 have with Matt Green about Speedway's biometric
2 timekeeping system?

3 A. It's a regular topic of conversation
4 between us even today.

5 Q. Okay. Have you ever discussed whether
6 or not those biometric clocks were complying with
7 BIPA with Matt Green?

8 A. Not specific to BIPA. Outside of
9 sending this article and after we became aware of
10 the lawsuit we haven't really had conversation
11 outside of that, just as far as the compliance of
12 the time and attendance.

[REDACTED]

1 break? Matt, I'm getting close to being done.

2 MR. WOLFE: Okay.

3 MR. STEPHAN: So let me just kind
4 of take a look at my notes, take five minutes, and
5 we'll come back and wrap up.

6 MR. WOLFE: Okay. Is that all
7 right with you?

8 THE WITNESS: Yeah, that's fine.

9 (WHEREUPON, a recess was taken.)

10 BY MR. STEPHAN:

11 Q. Kelli, would you agree that Speedway
12 has used biometric clocks for purposes of employee
13 timekeeping?

14 MR. WOLFE: Same objection as
15 before as to the term biometric, but go ahead.

16 THE WITNESS: Yes.

17 BY MR. STEPHAN:

18 Q. And is that why Speedway rolled out
19 this new consent in November of 2017?

20 A. That is not why. I think Speedway is
21 continuously evaluating policies, and we wanted to
22 make sure that, you know, we had a strong
23 compliance as we possibly could in all states.

24 Q. Right. So you would agree that
25 Speedway was doing its best to come into compliance

1 at least as of November 2017 with BIPA?

2 A. I mean, it was my understanding that we
3 were already in compliance. It was just a tool to
4 strengthen it.

5 Q. Well, what was done to ensure
6 compliance before November of 2017?

7 A. We keep our data secured. We have
8 numerous policies addressing the privacy of
9 employee data and how we do not transmit that to
10 third party vendors, employees consent to
11 understanding that we treat our employee data and
12 customer data very, very securely.

13 Q. Okay. Are you aware of anything else
14 that was done by anyone at Speedway to ensure
15 compliance with BIPA prior to November of 2017?

16 A. Not specific to BIPA.

17 Q. And when you say that data was secured,
18 what data are you referring to?

19 A. Any kind of personal information data.

20 Q. Okay. That would include biometric
21 data, correct?

22 A. That would include the code that was
23 assigned to the employee.

24 Q. Okay. That would include the data that
25 was collected by Speedway's time clocks, correct?

1 A. Yes.

2 Q. You also mentioned that there were
3 numerous policies that showed compliance, correct?

4 A. Yes.

5 Q. What policies are those?

6 A. That would be like our code of conduct,
7 code of business conduct policy, our information
8 release policy, our personal and employment
9 information policy, retention policies, those types
10 of documents.

11 Q. Did any of those policies you just
12 mentioned reference BIPA?

13 A. Not specific.

14 Q. Did any of those reference biometric
15 information systems?

16 A. Not specifically.

17 Q. Did any of those reference fingerprints
18 collected for purposes of timekeeping?

19 A. Not specifically.

20 Q. Okay. The last thing I think you
21 mentioned was employee's consent, give consent; is
22 that right?

23 A. Employee consent to understanding
24 Speedway's policy on information, yes.

25 Q. So you're talking about general

1 consent, correct?

2 A. For the code of business conduct.

3 Q. Okay. Did they have to sign off on the
4 code of business conduct?

5 A. Yes.

6 Q. Okay. And that code of business
7 conduct, correct me if I'm wrong, doesn't say
8 anything about BIPA, correct?

9 A. Not specifically.

10 Q. It doesn't say anything about
11 biometric, does it?

12 A. Not specifically.

13 Q. So the only consent that says anything
14 about fingerprints or biometric information, BIPA
15 is the one that was rolled out in November of 2017,
16 correct?

17 A. Yes.

18 Q. Do you know who Hannah Rice is?

19 A. Hannah Rice, I have heard the name. I
20 believe she was a district manager trainee a long
21 time ago.

22 Q. Do you know if she's a communication
23 supervisor?

24 A. She, you know now that you mention it,
25 she was a communication supervisor for a very, very